



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT
Tentative Notice of Action

MEETING DATE May 15, 2015 LOCAL EFFECTIVE DATE May 29, 2015 APPROX FINAL EFFECTIVE DATE June 19, 2015	CONTACT/PHONE Schani Siong, Project Manager 805-781-4374	APPLICANT M&R Investment One Company, Inc.	FILE NO. DRC2014-00022
SUBJECT Hearing to consider a request by M&R INVESTMENT ONE COMPANY, INC. for a Minor Use Permit/Coastal Development Permit to allow for grading and the construction of three (3) new 2-story residences located on three existing parcels totaling approximately 31,300 square feet. The development includes: a 2,600 sq.ft. residence with a 400 sq.ft. garage on merged Lots 3 and 4 (lot area approximately 15,937 sq.ft.); a 3,200 sq.ft. residence with a 400 sq.ft. garage on Lot 5 (lot area approximately 7,827 sq.ft.); and a 3,200 sq.ft. residence with a 400 sq.ft. garage on Lot 6 (lot area approximately 7,537 sq.ft.). The total area of disturbance is approximately 17,500 sq.ft. (approximately 10,000 on-site and 7,500 off-site improvements). The project site is in the Residential Multi-Family and Recreation land use categories. The project includes placement of approximately 15,610 square feet into an open space easement for habitat protection. The project is located on the northwest corner of Birch Avenue and "E" Street, in the community of Cayucos, in the Estero planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2014-00022 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator found that the previously adopted Negative Declaration is adequate for the purposes of compliance with CEQA. Per State CEQA Guidelines (Sec. 15164(a), Sec. 15162) an Addendum to the adopted Negative Declaration was prepared as the following conditions apply: 1) only minor technical changes or additions are necessary; 2) no substantial changes have been made or occurred that would require major revisions to the Negative Declaration due to either new significant effects or substantial increases in the severity of previously identified significant effects; 3) substantial changes have not occurred with respect to the circumstances under which the project is undertaken; 4) no new information of substantial importance which was not known or could not have been known at the time of the adopted Negative Declaration has been identified. No new mitigation measures have been proposed.			
LAND USE CATEGORY Residential Multi-family and Recreation	COMBINING DESIGNATION Local Coastal Plan, Flood Hazard, Sensitive Resource Area (SRA), Environmentally Sensitive Habitat Areas (ESHA), Streams and Riparian Vegetation (SRV)	ASSESSOR PARCEL NUMBER 064-112-022 and 064-112-023	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: <i>Section III Areawide:</i> Resource Protection, Light & Glare, <i>Section V. Cayucos Urban Area Standards:</i> Communitywide, Residential Multi Family, Building Height & Setbacks, <i>Combining Designation:</i> (SRA) Coastal Streams Setbacks. <i>Does the project meet applicable Planning Area Standards:</i> Yes – see discussion			
LAND USE ORDINANCE STANDARDS: Section 23.07.120 - Local Coastal Program Area, Section 23.07.160 - Sensitive Resource Area, Section 23.07.172 – Wetlands, Section 23.07.170 Environmentally Sensitive Habitat, Section 23.07.174 – Streams and Riparian Vegetation, 23.07.104 Archaeologically Sensitive Areas 23.04.166 Number of Parking Spaces Required, <i>Does the project conform to the Land Use Ordinance Standards:</i> Yes - see discussion			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14 calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			

EXISTING USES: Vacant land / creek	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Multi-family/single family residences <i>South:</i> Public Facilities/storage barn <i>East:</i> Residential Multi-family/single family residences <i>West:</i> Residential Multi-family/ residences	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Cayucos Sanitary, Regional Water Quality Control Board, Parks & Recreation, Building, Cayucos Fire, Cayucos Elementary School District, Morro Rock Mutual Water Company, California Coastal Commission, and the Cayucos Community Advisory Committee	
TOPOGRAPHY: Gently to steeply sloping	VEGETATION: Riparian vegetation, eucalyptus and pine trees, grasses
PROPOSED SERVICES: Water supply: Community system – Morro Rock Mutual Water Sewage Disposal: Community system –Cayucos Sanitary Fire Protection: County Fire / CDF	ACCEPTANCE DATE: November 30, 2014

BACKGROUND

A minor use permit (D020030P) for a nearly identical project on this same site was submitted in 2002 by the applicant. That project proposed access from an alley on the southerly side of the property. Due to numerous encroachments into the alley and concerns with additional traffic and parking along the alley, the neighbors filed a lawsuit on the issue of alley use. Based on a court settlement, the project was revised to include driveway access from Birch Avenue on the northerly side of the property (from “E” Street).

In January 2007, the revised project was approved and a Mitigated Negative Declaration was filed. Key issues included setbacks from riparian vegetation and potential impacts to Monarch butterfly eucalyptus tree habitat and archaeological resources. Public Works granted a curb, gutter, and sidewalk waiver for Birch Avenue.

The Coastal Commission subsequently appealed the project due to inconsistencies with Local Coastal Plan Policies for Environmentally Sensitive Habitat Areas (ESHA). The CZLUO Riparian setback is 50 feet minimum, and is adjustable to 10 feet from a stream bank with required findings. The project requested a riparian habitat setback adjustment to 10 feet from a stream bank (Little Cayucos Creek). The Coastal Commission found the adjustment inconsistent with the required findings per CZLUO. At the appeal hearing in July 2007, the Coastal Commission recommended approval of the project, subject to a 20 foot riparian setback revision and conditions to protect the riparian habitat, Monarch butterfly habitat and water quality.

In June 2008, the Commission approved a Coastal Development Permit (A-3-SLO-07-024) for development consisting of: construction of 3 two-story single family residences ranging from approximately 3,200 to 3,600 square feet (including garages), and related offsite improvements (Birch Avenue access road, utility trenching, and shared driveway construction on adjacent Lot 7). The project was revised to meet the 20 foot setback from Little Cayucos Creek, and included placement of about half of the site (in the Little Cayucos Creek corridor) into an open space conservation easement. This coastal development permit expired in July 2014 before the applicant was able to clear the permit’s special conditions and start construction.

PROJECT DETAIL

The expiration of the CDP (A-3-SLO-07-024) resulted in the applicant having to re-apply to the County for a new Minor Use Permit for the same project, as revised and approved with conditions by the Coastal Commission. The project was updated to include a construction schedule and better defined three site work areas (Work Area 1, 2 and 3) in order to comply with the allowable construction period between April 15 through October 1 (Monarch butterfly roosting off-season). With smaller work areas, the applicant can schedule feasible construction work necessary within the allowable 6 month construction window. The Work Areas can be developed in phases and/or concurrently. No new development is proposed from the work scope approved by CDP (A-3-SLO-07-024).

Work Area 1: Birch Avenue access road and utility improvements & riparian habitat restoration and enhancement;

Work Area 2: Shared driveway (and construction across adjacent Lot 7), one residence of approximately 2,600 sq.ft. with a 400 sq.ft. garage on Lot 3 & 4 (merged) and building pads for residences on Lot 5 and Lot 6; and

Work Area 3: Two residences on Lot 5 and Lot 6 and associated site improvements (each residence approximately 3,200 sq.ft. with a 400 sq.ft. garage)

PLANNING AREA STANDARDS

Estero Areawide Standards

A. Resource Protection

1. **Clustered or Concentrated Development.** Wherever standards for clustering or concentrating development to protect identified sensitive features, the following standards apply:
 - a. **Reports.** Biological report(s) that addresses identified sensitive feature(s) shall be required.
 - b. **Development Location.** Development shall be located away from identified sensitive features on/ adjacent to the site, and in areas most suitable for development. Development shall result in no adverse impacts to environmentally and other sensitive areas, including avoidance of the required setback, buffers and fuel modification zones.
 - c. **Setbacks.** Development shall include sufficient setbacks/ buffers to protect environmentally sensitive areas; at a minimum, setbacks as required in the Estero area plan and in the Chapter 23.07 of the CZLUO, as applicable
 - d. **Extent, Intensity of Development.** The number of units/ development intensity and site coverage shall be consistent with protection of identified sensitive features on/ adjacent to the site.
 - e. **Protection of Sensitive Features.** Identified sensitive features shall be protected through building controls, mitigation agreements, easements, or other means, consistent with applicable legal requirements to allow reasonable use of the site.
 - f. **Arrangement of Open Space.** Where feasible, open space areas shall consist of larger, contiguous areas rather than smaller, disconnected pockets of open space.

2. Environmentally Sensitive Areas- Clustered Development and Habitat Protection Required.

- a. Cluster or concentrate development on the least sensitive portions of the site in order to protect and sustain environmentally sensitive areas and the following sensitive features:
 - i. Sensitive Resource Areas and Environmentally Sensitive Habitats as defined in the Land Use Element and Local Coastal Plan
 - iii. All riparian habitat corridors
 - iv. Rare, endangered or threatened species as listed by deferral or state agencies or in the State CEQA guidelines
 - v. Other significant stands of vegetation, such as eucalyptus – whether or not identified as SRA combining designation, that do not need to be removed due to hazardous condition or restoration / enhancement of native habitat.
- b. All development within 100 feet of the preceding sensitive features shall comply with the applicable standards for ESH in the Coastal Plan Policies and Chapter 23.07 of the CZLUO, except otherwise stated in this plan.
- c. Development shall not significantly disrupt or cause significant adverse environmental impacts to the preceding sensitive features, and shall not diminish the long-term sustainability of the biological resources.
- d. Development of all proposed building sites shall result in no adverse impacts to environmentally and other sensitive areas, including avoidance of the required setbacks, buffers and fuel modification zones.

Staff comments: The project complies with these standards. Based on biological reports conducted, the three houses are clustered together, located furthest away from the identified riparian and Monarch butterfly habitats, and meet the 20-foot setback required by the Estero Area Plan for Little Cayucos Creek. The project intensity is low for the Residential Multi Family parcels, with approximately 50% of the combined areas placed in an open space easement to protect the sensitive habitats. The project will be conditioned to implement grading, erosion, sedimentation and drainage BMPs during construction or any ground-disturbing work.

- G. Cayucos Planning Impact Area.** Within the planning impact area shown in Figure 7-5, applications for land divisions, general plan amendments, Minor Use Permits, and Development Plans shall be referred to the Cayucos Citizen Advisory Council or its successor for review and comment.

Staff comments: This project was referred to the Cayucos Citizen Advisory Council and the committee supported the project on February 4, 2015.

- H. Light and Glare.** The applicant shall provide details on any proposed exterior lighting, if applicable. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark- colored.

Staff comments: The project is conditioned to meet this standard.

Cayucos Urban Area Standards

Communitywide

- A. Resource Capacity and Service Availability.** Application for new land divisions and land use permits for new development shall be accompanied by letters from the applicable water purveyor and the Cayucos Sanitary District stating their intent to serve the proposed project.

Staff comments: This project complies with this standard because the applicant submitted a recent intent-to-serve letter from the Morro Rock Mutual Water Company, dated June 26, 2014. Cayucos Sanitary District issued a Conditional Will Serve letter for the project in 2005, which is still valid. The project is conditioned to meet all applicable requirements of the Cayucos Sanitary District Conditional Will Serve prior to the issuance of construction permit(s).

- F. Setbacks.** The required setbacks for the residence are as follows: front – 10 feet, sides – 3 feet, and rear – 5 feet.

Staff comments: This project complies with this standard.

Residential Multi-Family

- C. Height Limitations.** Maximum allowable building height shall be 28 feet.

Staff comment: This project will be conditioned to meet this standard.

Combining Designation

- C. Sensitive Resource Area (SRA). Setbacks from Coastal Streams.** Development shall be setback a minimum of 20 feet from Little Cayucos Creek. Riparian setbacks shall be measured from the upland edge of riparian vegetation / top of stream bank where no riparian vegetation exists.

Staff comment: This project complies with this standard. The proposed development is setback 20 feet from the edge of riparian vegetation and/or top of bank. The closest development to the riparian edge is a 20 foot wide shared driveway and a residence on Lot 3 & 4 (merged). Due to the shared driveway and coastal stream setback, residences on Lot 5 and 6 are setback more than 40 foot from the edge of riparian vegetation and/or top of bank, where no riparian vegetation exists.

COASTAL ZONE LAND USE ORDINANCE STANDARDS:

Section 23.01.043c(1) – Appeals to the Coastal Commission. The project is appealable to the Coastal Commission because the project is proposed development within 100 feet of Little Cayucos Creek (a mapped coastal stream).

Section 23.07.120 - Local Coastal Program

The project site is located within the California Coastal Zone as determined by the California Coastal Act of 1976 and is subject to the provisions of the Local Coastal Plan.

Section 23.04.166 – Number of Parking Spaces Required

The project site is located within the *Residential Multi-Family* land use category that requires 2 parking spaces per residence and 1 guest parking space.

Staff comments: Though the development is located on three Residential Multi-Family parcels, the proposed development consists of a single residence on each lot and is treated as single family dwellings. Each proposed residence includes a 2 car garage, which is the required number of off-street parking required for a single family residence.

Section 23.05.034 (c) – Grading Adjacent to Environmentally Sensitive Habitats

Grading shall not occur within 100 feet of any Environmentally Sensitive Habitat as shown in the Land Use Element except:

- (1) Where a setback adjustment has been granted as set forth in Sections 23.07.172d(2) (Wetlands) or 23.07.174d (2) (Streams and Riparian Vegetation) of this title; or
- (2) Within an urban service line when grading is necessary to locate a principally permitted use and where the approval body can find that the application of the 100-foot setback would render the site physically unsuitable for a principally permitted use. In such cases, the 100-foot setback shall only be reduced to a point where the principally-permitted use, as modified as much as practical from a design standpoint, can be located on the site. In no case shall grading occur closer than 50 feet from the Environmentally Sensitive Habitat or as allowed by planning area standard, whichever is greater.

Staff comments: The Estero planning area standard establishing a 20 foot setback from Little Cayucos Creek takes precedence over this section of the Coastal Zone Land Use Ordinance.¹ As described above, the proposed project meets the 20 foot setback requirement from Little Cayucos Creek. It should also be noted that applying the 100 foot CZLUO setback requirement could deny the applicant the ability to develop a principally permitted use of the project site.

Combining Designations

Section 23.07.060 Flood Hazard Area.

The Flood Hazard combining designation is applied to specific parcels by the Official Maps (Part III) of the Land Use Element to areas where terrain characteristics would present new developments and their users with potential hazards to life and property from potential inundation by a 100-year frequency flood or within coastal high hazard areas.

Staff comments: The project is conditioned to show the 100-year floodway line and all structures shall be located outside of this area.

¹ CZLUO Section 23.01.034(d) states: “If conflicts occur between a Land Use Element planning area standard and other provisions of this title, the Land Use Element planning area standard shall prevail...”

Section 23.07.160 – Sensitive Resource Area (SRA)

The Sensitive Resource Area combining designation is applied by the Official Maps (Part III) of the Land Use Element to identify areas with special environmental qualities, or areas containing unique or endangered vegetation or habitat resources. The purpose of these combining designation standards is to require that proposed uses be designed with consideration of the identified sensitive resources, and the need for their protection, and, where applicable, to satisfy the requirements of the California Coastal Act.

e. Required findings: Any land use permit application within a Sensitive Resource Area shall be approved only where the Review Authority can make the following required findings:

- (1) The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the Sensitive Resource Area designation, and will preserve and protect such features through the site design.
- (2) Natural features and topography have been considered in the design and siting of all proposed physical improvements.
- (3) Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.
- (4) The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion, and sedimentation of streams through undue surface runoff.

Section 23.07.170 – Environmentally Sensitive Habitat Area (ESHA)

A portion of the project site is considered an environmentally sensitive habitat area (ESHA) due to its location within the Streams and Riparian Vegetation combining designation. Applications for development within an ESHA must include a biological assessment to evaluate the project's impact on ESHA and whether the development will be consistent with the biological continuance of the habitat.

Approval of a land use permit for a project within or adjacent to an ESHA shall not occur unless the applicable review body first finds that:

- (1) There will be no significant negative impact on the identified sensitive habitat and the proposed use will be consistent with the biological continuance of the habitat.
- (2) The proposed use will not significantly disrupt the habitat.

Staff comments: The SRA designation is applied to the riparian habitat corridor, which includes the Monarch Butterfly habitat. Both habitats are considered to be environmentally sensitive habitat areas (ESHA) due to their locations within the Streams and Riparian Vegetation (SRV) combining designation (see discussion below). The proposed development (shared driveway and three residences) were designed to meet the 20 foot setback from Little Cayucos Creek, and located furthest away from the riparian habitat and tree dripline in order to protect the natural features and topography of the parcels. The project limit (disturbance) area is the minimum necessary to achieve safe and viable construction of the residences, as a principally-permitted use on the site. Conditions such as construction timing, exterior lighting, construction BMPs, an open space conservation easement, and Landscape Restoration and Enhancement Plan have been applied to the project to ensure biological continuance of, and no significant negative impacts to, the sensitive habitats.

Section 23.07.172 – Wetlands

Development proposed within or adjacent (within 100 feet of the upland extent of) a wetland area shown on the Environmentally Sensitive Habitat Maps, shall satisfy the requirements of this section to enable issuance of a land use or construction permit. These provisions are intended to maintain the natural ecological functioning and productivity of wetlands and estuaries and where feasible, to support restoration of degraded wetlands.

- d. Wetland setbacks:** New development shall be located a minimum of 100 feet from the upland extent of all wetlands, except as provided by subsection d(2). If the biological report required by Section 23.07.170 determines that such setback will provide an insufficient buffer from the wetland area, and the applicable approval body cannot make the finding required by Section 23.07.170b, then a greater setback may be required.

- (1) Permitted uses within wetland setbacks:** Within the required setback buffer, permitted uses are limited to passive recreation, educational, existing non-structural agricultural development in accordance with best management practices, utility lines, pipelines, drainage and flood control of facilities, bridges and road approaches to bridges to cross a stream and roads when it can be demonstrated that:

- (i) Alternative routes are infeasible or more environmentally damaging.
- (ii) Adverse environmental effects are mitigated to the maximum extent feasible.

Section 23.07.174 - Streams and Riparian Vegetation (SRV)

Coastal streams and adjacent riparian areas are environmentally sensitive habitats. The provisions of this section are intended to preserve and protect the natural hydrological system and ecological functions of coastal streams.

- a. Development adjacent to a coastal stream.**

Development adjacent to a coastal stream shall be sited and designed to protect the habitat and shall be compatible with the continuance of such habitat.

- d. Riparian setbacks:** New development shall be setback from the upland edge of riparian vegetation the maximum amount feasible. In the urban areas (inside the URL) this setback shall be a minimum of 50 feet. A larger setback will be preferable in both the urban and rural areas depending on parcel configuration, slope, vegetation types, habitat quality, water quality, and any other environmental consideration.

- (1) Permitted uses within the setback:** Permitted uses are limited to those specified in Section 23.07.172d (1) (for wetland setbacks), provided that the findings required by that section can be made. Additional permitted uses that are not required to satisfy those findings include pedestrian and equestrian trails, and non-structural agricultural uses.

All permitted development in or adjacent to streams, wetlands, and other aquatic habitats shall be designed and/or conditioned to prevent loss or disruption of the habitat, protect water quality, and maintain or enhance (when

feasible) biological productivity. Design measures to be provided include, but are not limited to:

- i. *Flood control and other necessary instream work should be implemented in a manner than minimizes disturbance of natural drainage courses and vegetation.*
- ii. *Drainage control methods should be incorporated into projects in a manner that prevents erosion, sedimentation, and the discharge of harmful substances into aquatic habitats during and after construction.*

Staff Comments: A Biological Assessment, prepared by Rincon Consultants, Inc., March 4, 2002, and a letter dated January 1, 2004, and Riparian Habitat Setback Evaluation, prepared by Rincon Consultants, Inc., dated April 2, 2004, concluded that the aquatic and riparian habitat associated with Little Cayucos Creek could provide potential movement, foraging, dispersal and aestivation for 4 special status animal species, including the Southern/Central Steelhead ESU, Tidewater Goby, California Red-Legged Frog, and Southwestern Pond Turtle. Results of US Fish and Wildlife Service (USFWS) Protocol California Red-Legged Frog Surveys for Cayucos Property was prepared by Rincon Consultants, Inc. on July 15, 2005. The report concluded that no CRLF individuals were observed or heard vocalizing during late May and early June 2005; therefore this species is highly unlikely to occur within the segment of Little Cayucos Creek within the study area. Though none were observed during the surveys, these species are recorded as occurring within the watershed, and the riparian corridor may be potentially a movement corridor for these species.

Regarding riparian setbacks, the coastal stream and riparian area will be preserved because the structures and driveways are setback adequately from riparian vegetation. The CZLUO requires a minimum 50 feet riparian setback and an adjusted minimum 25 feet wetland setback. However, the local Estero planning area standard requires a minimum 20 feet from coastal streams (Little Cayucos Creek). The LCP allows for the local area plan standard to prevail, when there is conflicting standards. The proposed development is setback 20 feet from the edge of riparian vegetation and/or top of bank. The closest development to the riparian edge is a 20 foot wide shared driveway and a residence on Lot 3 & 4 (merged). Due to the shared driveway and coastal stream setback, residences on Lot 5 and 6 are setback more than 40 foot from the edge of riparian vegetation and/or top of bank, where no riparian vegetation exists.

With adequate setback and conditions requiring BMPs for grading, erosion, sedimentation, and drainage plan, the proposed project will not degrade the riparian area and will be compatible with the continuance of the habitat. As proposed and conditioned, the project complies with this standard.

Section 23.07.176 - Terrestrial Habitat Protection

The provisions of this section are intended to preserve and protect rare and endangered species of terrestrial plants and animals by preserving their habitats. Emphasis for protection is on the entire ecological community rather than only the identified plant or animal.

- a. **Protection of vegetation.** Vegetation that is rare or endangered, or that serves as habitat for rare or endangered species shall be protected. Development shall be sited to minimize disruption of habitat.

b. Terrestrial habitat development standards:

- (1) Revegetation.** Native plants shall be used where vegetation is removed.
- (2) Area of disturbance.** The area to be disturbed by development shall be shown on a site plan. The area in which grading is to occur shall be defined on site by readily-identifiable barriers that will protect the surrounding native habitat areas.

Staff Comments: The project site is bordered by Little Cayucos creek and its surrounding riparian vegetation. The riparian vegetation is mapped ESHA and contains several large eucalyptus and Monterey cypress trees, which provide roosting and feeding areas for Monarch butterflies. Due to development impacts and tree removal, the site has been degraded in quality to a feeding site and not an overwintering site (Little, 2003, 2005). The riparian area also contains habitat suitable for many bird species and is a potential movement corridor for steelhead, tidewater goby, the southwestern pond turtle, and the California Red Legged Frog, which are considered special status species (Rincon, 2002). The sensitive habitats will be protected because the proposed residences are located furthest from the riparian vegetation and Monarch habitat, outside the 20 foot creek setback and no wood burning fireplaces are allowed in or outside the residences. Conditions such as riparian restoration and enhancement and BMPs for grading, erosion, sedimentation and drainage will also ensure adequate protection of the riparian area

Section 23.07.104 - Archaeologically Sensitive Areas

The project sites are not within the mapped AS combining designation within the Cayucos Urban Area. However, consistent with Section 23.07.104(a)(3), the project is subject to the AS combining designation provision due to the fact that an archeological site has been recorded on the project site.

Staff Comments: A Phase 1 (surface survey) found evidence of a prehistoric archeological site on the project site (Bertrando, 2002). With the evidence of a pre-historic archeological site, the provisions of the AS combining designation was applied to this project site. A Phase 2 Archeological study was conducted to characterize the type, depth and extent of resources, and determine the impacts of the proposed project on the cultural resources through the placements of a limited number of test units (Central Coast Archeology, Feb 2006). The plan included recommendations for a Phase III Mitigation and Monitoring plan (Central Coast Arch, July 2006).

Due to the limited construction period allowed (Monarch butterfly roosting off-season), the proposed development has been proposed in three Work Areas, which can be constructed in phases or concurrently. The smaller work areas enable the applicant to schedule feasible construction work necessary within the allowable 6 month construction window. Based on the additional project information regarding construction timing and detailed construction improvements, it was determined that the archeological assessment and mitigation approach needed to be updated and refined. An updated Phase III Mitigation and Monitoring work plan had been submitted to guide the mitigation of significant impacts related to all project actions, address data gaps in the 2006 Phase III plan, and refine the data sampling and recovery approach. This project is conditioned to implement the updated Phase III Archeological Work Plan (Applied Earthworks, April 2015). For detailed discussion of the updated Work Plan, refer to Archeological Resources discussion in Coastal Plan Policies section of this staff report.

COASTAL PLAN POLICIES:

Shoreline Access:	N/A
Recreation and Visitor Serving:	N/A
Energy and Industrial Development:	N/A
Commercial Fishing, Recreational Boating & Port Facilities:	N/A
Environmentally Sensitive Habitats: <input checked="" type="checkbox"/>	Policy No(s): 1,2,20,21,28,29,35
Agriculture:	N/A
Public Works: <input checked="" type="checkbox"/>	Policy No(s): 1
Coastal Watersheds: <input checked="" type="checkbox"/>	Policy No(s): 8,9,10
Visual and Scenic Resources: <input checked="" type="checkbox"/>	N/A
Hazards:	N/A
Archaeology: <input checked="" type="checkbox"/>	Policy No(s): 1, 5, 6
Air Quality:	N/A

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION

Environmentally Sensitive Habitats (ESHAs)

Policy 1: **Land Uses within or adjacent to Environmentally Sensitive Habitats.** New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

Policy 2: **Permit requirements.** As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

Staff comments: The project is located within 100 feet of an EHSA. Biological reports and site observations determined the Little Cayucos Creek riparian area could be a potential movement corridor for several special status animals (Southern/Central Steelhead ESU, Tidewater Goby, California Red-Legged Frog, and Southwestern Pond Turtle). A portion of the riparian area also contains a Monarch habitat (determined not to be a wintering site, but still important for feeding). The project was redesigned to meet the minimum 20 feet setback from the riparian vegetation (houses on Lot 5 and 6 are setback at least 40 feet), and located to the furthest extent from the sensitive habitats. Additional mitigation measures and project conditions (including BMPs for grading, erosion and sedimentation, drainage control, prohibition of fireplaces and direct exterior lighting in the riparian area, limited construction period, and riparian restoration) should provide adequate protection of the ESHA over time while still allowing for a reasonable principally permitted use on the project site.

Policy 3: Habitat restoration. The County or Coastal Commission should require the restoration of damaged habitats as a condition of approval when feasible.

Staff comments: The project is consistent with this policy because it is conditioned to implement the approved Landscape Restoration and Enhancement Plan to restore the riparian habitat corridor.

Policy 20: Coastal Streams and Riparian Vegetation. Coastal streams and adjoining riparian vegetation are environmentally sensitive habitat areas and the natural hydrological system and ecological function of coastal streams shall be protected and preserved.

Policy 21: Development in or adjacent to a coastal stream. Development adjacent to or within the watershed (that portion within the coastal zone) shall be sited and designed to prevent impacts which would significantly degrade the coastal habitat and shall be compatible with the continuance of such habitat areas. This shall include evaluation of erosion and runoff concerns.

Policy 28: Buffer Zone for Riparian Vegetation. In urban areas the buffer setback zone shall be a minimum 50 feet except where a lesser buffer is specifically permitted. The buffer zone shall be maintained in natural condition along the periphery of all streams.

Policy 29: Protection of Terrestrial Habitats. Designated plant and wildlife habitats are environmentally sensitive habitat areas and emphasis for protection should be placed on the entire ecological community. Only uses dependent on the resource shall be permitted within the identified sensitive habitat portion of the site. Development adjacent to environmentally sensitive habitat areas and holdings of the State Department of Parks and Recreation shall be sited and designed to prevent impacts that would significantly degrade such areas and shall be compatible with the continuance of such habitat areas.

Staff comments: Little Cayucos Creek and its surrounding riparian vegetation is considered ESHA as defined in Policy 20. As required by Policy 21, the proposed development has been redesigned to prevent impacts to and ensure the continuance of this habitat. The proposed development meets the 20 foot Little Cayucos Creek setback requirement of the Estero Area Plan, which takes precedence over the 50 foot setback established by the CZLUO and Policy 28. The structures are sited on the least environmentally damaging location of the project site, and comply with the Little Cayucos Creek setback. Any larger setback may diminish the possibility of providing for a principally permitted use on Lots 3 and 4 (merged). Structures on Lots 5 and 6 are setback at least 40 feet from the riparian vegetation as they are located on the opposite side of the driveway. The project will not result in significant environmentally damaging or degrading impacts to the sensitive riparian habitat because the proposed structures will meet and exceed the required riparian setback of the Estero Area Plan and is of adequate setback of structures, prohibition of fireplaces and direct lighting, and implementation of appropriate erosion and sedimentation measures during the construction of the project.

- Policy 35: Protection of Vegetation.** Vegetation which is rare or endangered or serves as cover for endangered wildlife shall be protected against any significant disruption of habitat value. All development shall be designed to disturb the minimum amount possible of wildlife or plant habitat.

Staff comments: The proposed project is consistent with this policy because it includes conditions prohibiting tree and vegetation removal, except allowed in the approved Landscape Restoration and Enhancement Plan, and it includes a landscaping plan with elements to enhance riparian vegetation and Monarch habitat. Implementation of these plans will help protect the existing sensitive riparian and Monarch habitats against significant disruption of habitat value.

Public Works

- Policy 1: Availability of Service Capacity.** New development shall demonstrate that adequate public or private service capacities are available to serve the proposed development.

Staff comments: The project complies with this standard. Conditional will serve letters (water and sewer) were submitted for the proposed development.

Coastal Watersheds

- Policy 8: Timing of Construction and Grading.** Land clearing and grading shall be avoided during the rainy season if there is a potential for serious erosion and sedimentation problems. All slope and erosion control measures should be in place before the start of the rainy season. Soil exposure should be kept to the smallest area and the shortest feasible period.

Staff comments: This project complies with this standard because construction activities are only allowed from April 15 through October 1 (Monarch butterfly roosting off-season).

- Policy 9: Techniques for Minimizing Sedimentation.** Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation.

- Policy 10: Drainage Provisions.** Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

Staff comments: The project complies with Policy 9 and 10 because prior to issuance of grading/ or construction permits, the project shall demonstrate compliance with water quality protection regulations. Conditions requiring implementation of BMPs in grading, erosion and sedimentation control and drainage will minimize harmful impacts to ESHA that may result from increased run-off, erosion or sedimentation during construction activities.

Archaeological Resources

Policy 1: Protection of Archaeological Resources. The county shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where these measures are not feasible and development will adversely affect identified archeological or paleontological resources, adequate mitigation shall be required.

Policy 5: Mitigation Techniques for Preliminary Site Survey before Construction

Where substantial archaeological resources are found as a result of a preliminary site survey before construction, the county shall require a mitigation plan to protect the site. Some examples of specific mitigation techniques include:

- a. Project redesign could reduce adverse impacts of the project through relocation of open space, landscaping or parking facilities.
- b. Preservation of an archaeological site can sometimes be accomplished by covering the site with a layer of fill sufficiently thick to insulate it from impact. This surface can then be used for building that does not require extensive foundations or removal of all topsoil.
- c. When a project impact cannot be avoided, it may be necessary to conduct a salvage operation. This is usually a last resort alternative because excavation, even under the best conditions, is limited by time, costs and technology. Where the chosen mitigation measure necessitates removal of archaeological resources, the county shall require the evaluation and proper deposition of the findings based on consultation with a qualified archaeologist knowledgeable in the Chumash culture.
- d. A qualified archaeologist knowledgeable in the Chumash culture may need to be on-site during initial grading and utility trenching for projects within sensitive areas.

Policy 6: Archaeological Resources Discovered during Construction or through Other Activities. Where substantial archaeological resources are discovered during construction of new development, or through non-permit related activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures.

Staff comments: The project is consistent with these policies and conditions have been included to assure that significant impacts to archeological resources within the project area will be adequately mitigated accordingly based on the recommendations outlined in the updated Phase III Archeological Work Plan (Applied Earthworks, April 2015).

Previous studies (Bertrando, CCA) identified archeological resources extending across the entire development area. Since avoidance of the resources is not possible, a data recovery plan was proposed (Central Coast Archeology, 2006) consistent with Policy 5(c) and (d). This plan has been updated to refine the approach to testing and sampling, which includes a two-stage approach (Applied Earthworks, April 2015).

Stage 1 includes an initial site inspection to delineate the content and extent of surface and subsurface deposits, ultimately mapping the archeological site boundaries vis-à-vis the proposed three Work Areas. Focused investigation will be conducted in Work Area 1 and 2, and additional sampling will be done in Work Area 3 to help focus data recovery effort in that area. Based on the Stage 1 findings, final recommendation on the excavation volumes needed to mitigate site impacts and achieve the objectives of the research design, based on actual volume of site disturbance will be submitted to the County Planning and Building review and approval prior proceeding to Stage 2.

Stage 2 concentrates on data recovery excavation in the Work Area 2 and 3, and recovers statistically valid and appropriate sized samples for data analysis. The bulk of site disturbance is anticipated in the Work Area 2 and 3 during construction of the shared driveway, building pads, and residences. The updated Plan recommended between 3 to 10 cubic meters of excavation within the affected cultural deposits for data recovery. Final volume will be dictated by the results of the Stage 1 investigation, and the mapping of archeological site boundaries and contents in relation to the three Work Areas.

Construction monitoring by an archeological monitor and Native American tribal representative will be required during any ground disturbing activities. Data recovery fieldwork for all three Work Areas is anticipated to be completed concurrently during the initial construction of Work Area 1. Prior to any construction activities, this project is conditioned for a detailed Phase III Mitigation and Monitoring plan, subject to the guidelines in the updated Phase III Archeological Work Plan (Applied Earthworks, 2015) and approval by the County Department of Planning and Building.

COMMUNITY ADVISORY GROUP COMMENTS:

Cayucos Community Advisory Council – Recommended approval on February 4, 2015.

AGENCY REVIEW:

Public Works – *Project granted a Curb, Gutter and Sidewalk waiver. The project is within a drainage review area and a drainage plan is required. The project meets the applicability criteria for Stormwater Management and shall comply with applicable requirements. (Frank Honeycutt, Oct 22, 2014)*

Cayucos Sanitary District – Project is subject to will-serve letter conditions issued in 2005 and any applicable requirements today. Extension fees required (CSD, April 2015)

Morro Rock Mutual Water Company - Will serve letter issued (June 26, 2014)

Cayucos Fire Department – Project is subject and not limited to, comments/ items listed on letter dated August 29, 2002 and fax dated 9/8/06 (Bill Radke, Fire Chief). No comments (Darrin Carlson, Sept 25, 2014)

California Coastal Commission – Quit Claim Deed required.(Nov 17, 2014)

Cayucos Elementary School District - Development fees required. Lots are likely located within two school districts - Coast Unified School District and Cayucos Elementary School District. (Anne Hubbard, Sept 30, 2014).

General Services & Parks – No Comments

LEGAL LOT STATUS:

Legal Lot – the parcels were created by recorded map of the Town of Cayucos and recognized by Certificates of Compliance. Lots 3 and 4 have been merged by a voluntary merger document dated March 5, 2005.

Staff report prepared by Schani Siong and reviewed by Airlin Singewald and Steve McMasters.